

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SPECIAL SESSION

**LEGISLATIVE BILL 5**

Introduced by Education Committee: Adams, 24, Chairperson; Avery, 28; Giese, 17; Haar, 21; Howard, 9; Sullivan, 41; Lautenbaugh, 18.

Read first time November 04, 2009

Committee: Education

A BILL

1 FOR AN ACT relating to state aid to schools; to amend sections  
2 79-1005.01, 79-1007.15, 79-1007.19, and 79-1008.01,  
3 Reissue Revised Statutes of Nebraska, and sections  
4 77-3446, 79-1001, 79-1003, 79-1007.11, 79-1007.23, and  
5 79-1023, Revised Statutes Supplement, 2009; to redefine  
6 terms; to change and eliminate provisions relating  
7 to disbursement of income tax receipts, calculation  
8 of formula need, elementary site allowance, teacher  
9 education adjustment, and instructional time allowance  
10 and expenditure limits as prescribed; to provide  
11 for calculation of a teacher education allowance; to  
12 harmonize provisions; to repeal the original sections;  
13 and to declare an emergency.

LB 5

LB 5

1 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-3446, Revised Statutes Supplement,  
2 2009, is amended to read:

3           77-3446 Base limitation means the budget limitation rate  
4 applicable to school districts and the limitation on growth of  
5 restricted funds applicable to other political subdivisions prior  
6 to any increases in the rate as a result of special actions  
7 taken by a supermajority of any governing board or of any  
8 exception allowed by law. The base limitation is two and one-half  
9 percent until adjusted, except that the base limitation for school  
10 districts for school fiscal years 2009-10, 2011-12, and through  
11 2012-13 is one and one-half percent and the base limitation for  
12 school districts for school fiscal year 2010-11 is one-half of  
13 one percent. The base limitation may be adjusted annually by  
14 the Legislature to reflect changes in the prices of services and  
15 products used by school districts and political subdivisions.

16           Sec. 2. Section 79-1001, Revised Statutes Supplement,  
17 2009, is amended to read:

18           79-1001 Sections 79-1001 to 79-1033 and section 8 of  
19 this act shall be known and may be cited as the Tax Equity and  
20 Educational Opportunities Support Act.

21           Sec. 3. Section 79-1003, Revised Statutes Supplement,  
22 2009, is amended to read:

23           79-1003 For purposes of the Tax Equity and Educational  
24 Opportunities Support Act:

25           (1) Adjusted general fund operating expenditures means

1 (a) for school fiscal years before school fiscal year 2007-08,  
2 general fund operating expenditures as calculated pursuant to  
3 subdivision (21) of this section minus the transportation allowance  
4 and minus the special receipts allowance, (b) for school fiscal  
5 year 2007-08, general fund operating expenditures as calculated  
6 pursuant to subdivision (21) of this section minus the sum of  
7 the transportation, special receipts, and distance education and  
8 telecommunications allowances, (c) for school fiscal year 2008-09,  
9 the difference of the product of the general fund operating  
10 expenditures as calculated pursuant to subdivision (21) of this  
11 section multiplied by the cost growth factor calculated pursuant  
12 to section 79-1007.10 minus the transportation allowance, special  
13 receipts allowance, poverty allowance, limited English proficiency  
14 allowance, distance education and telecommunications allowance,  
15 elementary site allowance, elementary class size allowance, summer  
16 school allowance, and focus school and program allowance, (d)  
17 for school fiscal ~~years 2009-10 through 2012-13~~, year 2009-10,  
18 the difference of the product of the general fund operating  
19 expenditures as calculated pursuant to subdivision (21) of this  
20 section multiplied by the cost growth factor calculated pursuant  
21 to section 79-1007.10 minus the transportation allowance, special  
22 receipts allowance, poverty allowance, limited English proficiency  
23 allowance, distance education and telecommunications allowance,  
24 elementary site allowance, elementary class size allowance, summer  
25 school allowance, instructional time allowance, and focus school

1 and program allowance, (e) for school fiscal year 2010-11,  
2 the difference of the product of the general fund operating  
3 expenditures as calculated pursuant to subdivision (21) of this  
4 section multiplied by the cost growth factor calculated pursuant  
5 to section 79-1007.10 minus the transportation allowance, special  
6 receipts allowance, poverty allowance, limited English proficiency  
7 allowance, distance education and telecommunications allowance,  
8 elementary site allowance, elementary class size allowance,  
9 summer school allowance, instructional time allowance, teacher  
10 education allowance, and focus school and program allowance,  
11 (f) for school fiscal years 2011-12 and 2012-13, the difference  
12 of the product of the general fund operating expenditures  
13 as calculated pursuant to subdivision (21) of this section  
14 multiplied by the cost growth factor calculated pursuant to  
15 section 79-1007.10 minus the transportation allowance, special  
16 receipts allowance, poverty allowance, limited English proficiency  
17 allowance, distance education and telecommunications allowance,  
18 elementary site allowance, elementary class size allowance, summer  
19 school allowance, teacher education allowance, and focus school  
20 and program allowance, and ~~(e)~~ (g) for school fiscal year 2013-14  
21 and each school fiscal year thereafter, the difference of the  
22 product of the general fund operating expenditures as calculated  
23 pursuant to subdivision (21) of this section multiplied by the  
24 cost growth factor calculated pursuant to section 79-1007.10  
25 minus the transportation allowance, special receipts allowance,

1 poverty allowance, limited English proficiency allowance, distance  
2 education and telecommunications allowance, elementary site  
3 allowance, summer school allowance, ~~instructional time~~ teacher  
4 education allowance, and focus school and program allowance;

5 (2) Adjusted valuation means the assessed valuation of  
6 taxable property of each local system in the state, adjusted  
7 pursuant to the adjustment factors described in section 79-1016.  
8 Adjusted valuation means the adjusted valuation for the property  
9 tax year ending during the school fiscal year immediately preceding  
10 the school fiscal year in which the aid based upon that value is  
11 to be paid. For purposes of determining the local effort rate yield  
12 pursuant to section 79-1015.01, adjusted valuation does not include  
13 the value of any property which a court, by a final judgment from  
14 which no appeal is taken, has declared to be nontaxable or exempt  
15 from taxation;

16 (3) Allocated income tax funds means the amount of  
17 assistance paid to a local system pursuant to section 79-1005.01 or  
18 79-1005.02 as adjusted by the minimum levy adjustment pursuant to  
19 section 79-1008.02;

20 (4) Average daily attendance of a student who resides on  
21 Indian land means average daily attendance of a student who resides  
22 on Indian land from the most recent data available on November 1  
23 preceding the school fiscal year in which aid is to be paid;

24 (5) Average daily membership means the average daily  
25 membership for grades kindergarten through twelve attributable to

1 the local system, as provided in each district's annual statistical  
2 summary, and includes the proportionate share of students enrolled  
3 in a public school instructional program on less than a full-time  
4 basis;

5 (6) Base fiscal year means the first school fiscal year  
6 following the school fiscal year in which the reorganization or  
7 unification occurred;

8 (7) Board means the school board of each school district;

9 (8) Categorical funds means funds limited to a specific  
10 purpose by federal or state law, including, but not limited to,  
11 Title I funds, Title VI funds, federal vocational education funds,  
12 federal school lunch funds, Indian education funds, Head Start  
13 funds, and funds from the Education Innovation Fund;

14 (9) Consolidate means to voluntarily reduce the number of  
15 school districts providing education to a grade group and does not  
16 include dissolution pursuant to section 79-498;

17 (10) Department means the State Department of Education;

18 (11) District means any Class I, II, III, IV, V, or VI  
19 school district;

20 (12) Ensuing school fiscal year means the school fiscal  
21 year following the current school fiscal year;

22 (13) Equalization aid means the amount of assistance  
23 calculated to be paid to a local system pursuant to sections  
24 79-1007.11 to 79-1007.23 and section 8 of this act, 79-1008.01 to  
25 79-1022, and 79-1022.02;

1           (14) Fall membership means the total membership in  
2 kindergarten through grade twelve attributable to the local system  
3 as reported on the fall school district membership reports for each  
4 district pursuant to section 79-528;

5           (15) Fiscal year means the state fiscal year which is the  
6 period from July 1 to the following June 30;

7           (16) Formula students means:

8           (a) For school fiscal years prior to school fiscal year  
9 2008-09, (i) for state aid certified pursuant to section 79-1022,  
10 the sum of fall membership from the school fiscal year immediately  
11 preceding the school fiscal year in which the aid is to be paid,  
12 multiplied by the average ratio of average daily membership to fall  
13 membership for the second school fiscal year immediately preceding  
14 the school fiscal year in which aid is to be paid and the prior  
15 two school fiscal years, plus qualified early childhood education  
16 fall membership plus tuitioned students from the school fiscal year  
17 immediately preceding the school fiscal year in which the aid is  
18 to be paid and (ii) for final calculation of state aid pursuant to  
19 section 79-1065, the sum of average daily membership plus qualified  
20 early childhood education average daily membership plus tuitioned  
21 students from the school fiscal year immediately preceding the  
22 school fiscal year in which the aid was paid; and

23           (b) For school fiscal year 2008-09 and each school fiscal  
24 year thereafter, (i) for state aid certified pursuant to section  
25 79-1022, the sum of the product of fall membership from the school

1 fiscal year immediately preceding the school fiscal year in which  
2 the aid is to be paid multiplied by the average ratio of average  
3 daily membership to fall membership for the second school fiscal  
4 year immediately preceding the school fiscal year in which the aid  
5 is to be paid and the prior two school fiscal years plus sixty  
6 percent of the qualified early childhood education fall membership  
7 plus tuitioned students from the school fiscal year immediately  
8 preceding the school fiscal year in which aid is to be paid minus  
9 the product of the number of students enrolled in kindergarten that  
10 is not full-day kindergarten from the fall membership multiplied by  
11 0.5 and (ii) for final calculation of state aid pursuant to section  
12 79-1065, the sum of average daily membership plus sixty percent of  
13 the qualified early childhood education average daily membership  
14 plus tuitioned students minus the product of the number of students  
15 enrolled in kindergarten that is not full-day kindergarten from the  
16 average daily membership multiplied by 0.5 from the school fiscal  
17 year immediately preceding the school fiscal year in which aid was  
18 paid;

19 (17) Free lunch and free milk student means a student  
20 who qualified for free lunches or free milk from the most recent  
21 data available on November 1 of the school fiscal year immediately  
22 preceding the school fiscal year in which aid is to be paid;

23 (18) Full-day kindergarten means kindergarten offered by  
24 a district for at least one thousand thirty-two instructional  
25 hours;

1           (19) General fund budget of expenditures means the total  
2 budget of disbursements and transfers for general fund purposes as  
3 certified in the budget statement adopted pursuant to the Nebraska  
4 Budget Act, except that for purposes of the limitation imposed in  
5 section 79-1023 and the calculation pursuant to subdivision (2) of  
6 section 79-1027.01, the general fund budget of expenditures does  
7 not include any special grant funds, exclusive of local matching  
8 funds, received by a district;

9           (20) General fund expenditures means all expenditures  
10 from the general fund;

11           (21) General fund operating expenditures means:

12           (a) For state aid calculated for school fiscal years  
13 prior to school fiscal year 2008-09, the total general fund  
14 expenditures minus categorical funds, tuition paid, transportation  
15 fees paid to other districts, adult education, summer school,  
16 community services, redemption of the principal portion of general  
17 fund debt service, retirement incentive plans, staff development  
18 assistance, and transfers from other funds into the general fund  
19 for the second school fiscal year immediately preceding the school  
20 fiscal year in which aid is to be paid as reported on the annual  
21 financial report prior to December 1 of the school fiscal year  
22 immediately preceding the school fiscal year in which aid is to be  
23 paid;

24           (b) For state aid calculated for school fiscal year  
25 2008-09, as reported for the second school fiscal year immediately

1 preceding the school fiscal year in which aid is to be paid  
2 on the annual financial report submitted prior to December  
3 1 of the school fiscal year immediately preceding the school  
4 fiscal year in which aid is to be paid, the total general  
5 fund expenditures minus (i) the amount of all receipts to  
6 the general fund, to the extent that such receipts are not  
7 included in local system formula resources, from early childhood  
8 education tuition, summer school tuition, educational entities as  
9 defined in section 79-1201.01 for providing distance education  
10 courses through the Educational Service Unit Coordinating Council  
11 to such educational entities, private foundations, individuals,  
12 associations, charitable organizations, the textbook loan program  
13 authorized by section 79-734, and federal impact aid, (ii)  
14 the amount of expenditures for categorical funds, tuition paid,  
15 transportation fees paid to other districts, adult education,  
16 community services, redemption of the principal portion of general  
17 fund debt service, retirement incentive plans authorized by section  
18 79-855, and staff development assistance authorized by section  
19 79-856, and (iii) the amount of any transfers from the general fund  
20 to any bond fund and transfers from other funds into the general  
21 fund;

22 (c) For state aid calculated for school fiscal year  
23 2009-10, as reported on the annual financial report for the second  
24 school fiscal year immediately preceding the school fiscal year  
25 in which aid is to be paid, the total general fund expenditures

1 minus (i) the amount of all receipts to the general fund, to the  
2 extent that such receipts are not included in local system formula  
3 resources, from early childhood education tuition, summer school  
4 tuition, educational entities as defined in section 79-1201.01  
5 for providing distance education courses through the Educational  
6 Service Unit Coordinating Council to such educational entities,  
7 private foundations, individuals, associations, charitable  
8 organizations, the textbook loan program authorized by section  
9 79-734, and federal impact aid, (ii) the amount of expenditures  
10 for categorical funds, tuition paid, transportation fees paid to  
11 other districts, adult education, community services, redemption  
12 of the principal portion of general fund debt service, retirement  
13 incentive plans authorized by section 79-855, and staff development  
14 assistance authorized by section 79-856, (iii) the amount of any  
15 transfers from the general fund to any bond fund and transfers from  
16 other funds into the general fund, and (iv) any legal expenses in  
17 excess of fifteen-hundredths of one percent of the formula need for  
18 the school fiscal year in which the expenses occurred; and

19 (d) For state aid calculated for school fiscal year  
20 2010-11 and each school fiscal year thereafter, as reported on  
21 the annual financial report for the second school fiscal year  
22 immediately preceding the school fiscal year in which aid is to be  
23 paid, the total general fund expenditures minus (i) the amount of  
24 all receipts to the general fund, to the extent that such receipts  
25 are not included in local system formula resources, from early

1 childhood education tuition, summer school tuition, educational  
2 entities as defined in section 79-1201.01 for providing distance  
3 education courses through the Educational Service Unit Coordinating  
4 Council to such educational entities, private foundations,  
5 individuals, associations, charitable organizations, the textbook  
6 loan program authorized by section 79-734, federal impact aid,  
7 and levy override elections pursuant to section 77-3444, (ii)  
8 the amount of expenditures for categorical funds, tuition paid,  
9 transportation fees paid to other districts, adult education,  
10 community services, redemption of the principal portion of general  
11 fund debt service, retirement incentive plans authorized by section  
12 79-855, and staff development assistance authorized by section  
13 79-856, (iii) the amount of any transfers from the general fund  
14 to any bond fund and transfers from other funds into the general  
15 fund, (iv) any legal expenses in excess of fifteen-hundredths of  
16 one percent of the formula need for the school fiscal year in which  
17 the expenses occurred, (v) expenditures to pay for sums agreed to  
18 be paid by a school district to certificated employees in exchange  
19 for a voluntary termination occurring prior to July 1, 2009, and  
20 (vi) (A) expenditures in school fiscal years 2009-10 through 2013-14  
21 to pay for employer contributions pursuant to subsection (2) of  
22 section 79-958 to the School Retirement System of the State of  
23 Nebraska to the extent that such expenditures exceed the employer  
24 contributions under such subsection that would have been made at a  
25 contribution rate of seven and thirty-five hundredths percent or

1 (B) expenditures in school fiscal years 2009-10 through 2013-14  
2 to pay for school district contributions pursuant to subdivision  
3 (1)(c)(i) of section 79-9,113 to the Class V School Employees  
4 Retirement System to the extent that such expenditures exceed the  
5 school district contributions under such subdivision that would  
6 have been made at a contribution rate of seven and thirty-seven  
7 hundredths percent.

8 For purposes of this subdivision (21) of this section,  
9 receipts from levy override elections shall equal ninety-nine  
10 percent of the difference of the total general fund levy minus  
11 a levy of one dollar and five cents per one hundred dollars of  
12 taxable valuation multiplied by the assessed valuation for school  
13 districts that have voted pursuant to section 77-3444 to override  
14 the maximum levy provided pursuant to section 77-3442;

15 (22) High school district means a school district  
16 providing instruction in at least grades nine through twelve;

17 (23) Income tax liability means the amount of the  
18 reported income tax liability for resident individuals pursuant  
19 to the Nebraska Revenue Act of 1967 less all nonrefundable credits  
20 earned and refunds made;

21 (24) Income tax receipts means the amount of income tax  
22 collected pursuant to the Nebraska Revenue Act of 1967 less all  
23 nonrefundable credits earned and refunds made;

24 (25) Limited English proficiency students means (a) for  
25 school fiscal years prior to school fiscal year 2009-10, the number

1 of students with limited English proficiency in a district from  
2 the most recent data available on November 1 of the school fiscal  
3 year preceding the school fiscal year in which aid is to be paid  
4 and (b) for school fiscal year 2009-10 and each school fiscal year  
5 thereafter, the number of students with limited English proficiency  
6 in a district from the most recent data available on November 1 of  
7 the school fiscal year preceding the school fiscal year in which  
8 aid is to be paid plus the difference of such students with limited  
9 English proficiency minus the average number of limited English  
10 proficiency students for such district, prior to such addition,  
11 for the three immediately preceding school fiscal years if such  
12 difference is greater than zero;

13 (26) Local system means a learning community for purposes  
14 of calculation of state aid for the second full school fiscal  
15 year after becoming a learning community and each school fiscal  
16 year thereafter, a unified system, a Class VI district and the  
17 associated Class I districts, or a Class II, III, IV, or V  
18 district and any affiliated Class I districts or portions of  
19 Class I districts. The membership, expenditures, and resources of  
20 Class I districts that are affiliated with multiple high school  
21 districts will be attributed to local systems based on the percent  
22 of the Class I valuation that is affiliated with each high school  
23 district;

24 (27) Low-income child means (a) for school fiscal years  
25 prior to 2008-09, a child under nineteen years of age living in

1 a household having an annual adjusted gross income of fifteen  
2 thousand dollars or less for the second calendar year preceding  
3 the beginning of the school fiscal year for which aid is being  
4 calculated and (b) for school fiscal year 2008-09 and each school  
5 fiscal year thereafter, a child under nineteen years of age living  
6 in a household having an annual adjusted gross income for the  
7 second calendar year preceding the beginning of the school fiscal  
8 year for which aid is being calculated equal to or less than the  
9 maximum household income that would allow a student from a family  
10 of four people to be a free lunch and free milk student during the  
11 school fiscal year immediately preceding the school fiscal year for  
12 which aid is being calculated;

13 (28) Low-income students means the number of low-income  
14 children within the district multiplied by the ratio of the formula  
15 students in the district divided by the total children under  
16 nineteen years of age residing in the district as derived from  
17 income tax information;

18 (29) Most recently available complete data year means  
19 the most recent single school fiscal year for which the annual  
20 financial report, fall school district membership report, annual  
21 statistical summary, Nebraska income tax liability by school  
22 district for the calendar year in which the majority of the school  
23 fiscal year falls, and adjusted valuation data are available;

24 (30) Poverty students means (a) for school fiscal years  
25 prior to school fiscal year 2009-10, the number of low-income

1 students or the number of students who are free lunch and free milk  
2 students in a district, whichever is greater, and (b) for school  
3 fiscal year 2009-10 and each school fiscal year thereafter, the  
4 number of low-income students or the number of students who are  
5 free lunch and free milk students in a district plus the difference  
6 of the number of low-income students or the number of students  
7 who are free lunch and free milk students in a district, whichever  
8 is greater, minus the average number of poverty students for  
9 such district, prior to such addition, for the three immediately  
10 preceding school fiscal years if such difference is greater than  
11 zero;

12 (31) Qualified early childhood education average daily  
13 membership means the product of the average daily membership for  
14 school fiscal year 2006-07 and each school fiscal year thereafter  
15 of students who will be eligible to attend kindergarten the  
16 following school year and are enrolled in an early childhood  
17 education program approved by the department pursuant to section  
18 79-1103 for such school district for such school year multiplied by  
19 the ratio of the actual instructional hours of the program divided  
20 by one thousand thirty-two if: (a) The program is receiving a grant  
21 pursuant to such section for the third year; (b) the program has  
22 already received grants pursuant to such section for three years;  
23 or (c) the program has been approved pursuant to subsection (5) of  
24 section 79-1103 for such school year and the two preceding school  
25 years, including any such students in portions of any of such

1 programs receiving an expansion grant;

2 (32) Qualified early childhood education fall membership  
3 means the product of membership on the last Friday in September  
4 2006 and each year thereafter of students who will be eligible  
5 to attend kindergarten the following school year and are enrolled  
6 in an early childhood education program approved by the department  
7 pursuant to section 79-1103 for such school district for such  
8 school year multiplied by the ratio of the planned instructional  
9 hours of the program divided by one thousand thirty-two if: (a)  
10 The program is receiving a grant pursuant to such section for the  
11 third year; (b) the program has already received grants pursuant to  
12 such section for three years; or (c) the program has been approved  
13 pursuant to subsection (5) of section 79-1103 for such school year  
14 and the two preceding school years, including any such students in  
15 portions of any of such programs receiving an expansion grant;

16 (33) Regular route transportation means the  
17 transportation of students on regularly scheduled daily routes to  
18 and from the attendance center;

19 (34) Reorganized district means any district involved  
20 in a consolidation and currently educating students following  
21 consolidation;

22 (35) School year or school fiscal year means the fiscal  
23 year of a school district as defined in section 79-1091;

24 (36) Sparse local system means a local system that is not  
25 a very sparse local system but which meets the following criteria:

1           (a) (i) Less than two students per square mile in the  
2 county in which each high school is located, based on the school  
3 district census, (ii) less than one formula student per square  
4 mile in the local system, and (iii) more than ten miles between  
5 each high school attendance center and the next closest high school  
6 attendance center on paved roads;

7           (b) (i) Less than one and one-half formula students per  
8 square mile in the local system and (ii) more than fifteen miles  
9 between each high school attendance center and the next closest  
10 high school attendance center on paved roads;

11           (c) (i) Less than one and one-half formula students per  
12 square mile in the local system and (ii) more than two hundred  
13 seventy-five square miles in the local system; or

14           (d) (i) Less than two formula students per square mile in  
15 the local system and (ii) the local system includes an area equal  
16 to ninety-five percent or more of the square miles in the largest  
17 county in which a high school attendance center is located in the  
18 local system;

19           (37) Special education means specially designed  
20 kindergarten through grade twelve instruction pursuant to section  
21 79-1125, and includes special education transportation;

22           (38) Special grant funds means the budgeted receipts for  
23 grants, including, but not limited to, Title I funds, Title VI  
24 funds, funds from the Education Innovation Fund, reimbursements  
25 for wards of the court, short-term borrowings including, but

1 not limited to, registered warrants and tax anticipation notes,  
2 interfund loans, insurance settlements, and reimbursements to  
3 county government for previous overpayment. The state board shall  
4 approve a listing of grants that qualify as special grant funds;

5 (39) State aid means the amount of assistance paid to a  
6 district pursuant to the Tax Equity and Educational Opportunities  
7 Support Act;

8 (40) State board means the State Board of Education;

9 (41) State support means all funds provided to districts  
10 by the State of Nebraska for the general fund support of elementary  
11 and secondary education;

12 (42) Statewide average basic funding per formula student  
13 means the statewide total basic funding for all districts divided  
14 by the statewide total formula students for all districts;

15 (43) Statewide average general fund operating  
16 expenditures per formula student means the statewide total  
17 general fund operating expenditures for all districts divided by  
18 the statewide total formula students for all districts;

19 (44) Teacher has the definition found in section 79-101;

20 (45) Temporary aid adjustment factor means (a) for school  
21 fiscal years before school fiscal year 2007-08, one and one-fourth  
22 percent of the sum of the local system's transportation allowance,  
23 the local system's special receipts allowance, and the product  
24 of the local system's adjusted formula students multiplied by  
25 the average formula cost per student in the local system's

1 cost grouping and (b) for school fiscal year 2007-08, one and  
2 one-fourth percent of the sum of the local system's transportation  
3 allowance, special receipts allowance, and distance education and  
4 telecommunications allowance and the product of the local system's  
5 adjusted formula students multiplied by the average formula cost  
6 per student in the local system's cost grouping;

7 (46) Tuitioned students means students in kindergarten  
8 through grade twelve of the district whose tuition is paid by the  
9 district to some other district or education agency; and

10 (47) Very sparse local system means a local system that  
11 has:

12 (a) (i) Less than one-half student per square mile in  
13 each county in which each high school attendance center is located  
14 based on the school district census, (ii) less than one formula  
15 student per square mile in the local system, and (iii) more than  
16 fifteen miles between the high school attendance center and the  
17 next closest high school attendance center on paved roads; or

18 (b) (i) More than four hundred fifty square miles in the  
19 local system, (ii) less than one-half student per square mile in  
20 the local system, and (iii) more than fifteen miles between each  
21 high school attendance center and the next closest high school  
22 attendance center on paved roads.

23 Sec. 4. Section 79-1005.01, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 79-1005.01 For state aid calculated for all school fiscal

1 years except school fiscal years 2002-03 through 2007-08:

2 (1) An amount equal to the amount appropriated to  
3 the School District Income Tax Fund for distribution in school  
4 fiscal year 1992-93 shall be disbursed as option payments as  
5 determined under section 79-1009 and as allocated income tax  
6 funds as determined in this section and sections 79-1008.01,  
7 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in  
8 section 79-1008.02. Funds not distributed as allocated income tax  
9 funds due to minimum levy adjustments shall not increase the amount  
10 available to local systems for distribution as allocated income tax  
11 funds;

12 (2) Not later than November 15 of each year, the Tax  
13 Commissioner shall certify to the department for the preceding tax  
14 year the income tax liability of resident individuals for each  
15 local system. The 1996 income tax liability of resident individuals  
16 of Class I districts that are affiliated with multiple high school  
17 districts shall be divided between local systems based on the  
18 percentage of the Class I district's valuation affiliated with each  
19 high school district; and

20 (3) Using the data certified by the Tax Commissioner  
21 pursuant to subdivision (2) of this section, the department  
22 shall calculate the allocation percentage and each local system's  
23 allocated income tax funds. The allocation percentage shall be an  
24 amount equal to the amount appropriated to the School District  
25 Income Tax Fund for distribution in school fiscal year 1992-93

1 minus the total amount paid for option students pursuant to section  
2 79-1009 and, for aid calculated for school fiscal year ~~2008-09,~~  
3 2010-11, minus twenty million dollars with the difference divided  
4 by the aggregate statewide income tax liability of all resident  
5 individuals certified pursuant to subdivision (2) of this section.  
6 Each local system's allocated income tax funds shall be calculated  
7 by multiplying the allocation percentage times the local system's  
8 income tax liability certified pursuant to subdivision (2) of this  
9 section.

10           Sec. 5. Section 79-1007.11, Revised Statutes Supplement,  
11 2009, is amended to read:

12           79-1007.11 (1) Except as otherwise provided in this  
13 section, for school fiscal year 2008-09, each school district's  
14 formula need shall equal the difference of the sum of the school  
15 district's basic funding, poverty allowance, limited English  
16 proficiency allowance, elementary class size allowance, focus  
17 school and program allowance, summer school allowance, special  
18 receipts allowance, transportation allowance, elementary site  
19 allowance, distance education and telecommunications allowance,  
20 averaging adjustment, and teacher education adjustment, minus  
21 the sum of the limited English proficiency allowance correction,  
22 poverty allowance correction, and local choice adjustment.

23           (2) Except as otherwise provided in this section, for  
24 school fiscal years ~~2009-10 and 2010-11,~~ year 2009-10, each  
25 school district's formula need shall equal the difference of the

1 sum of the school district's basic funding, poverty allowance,  
2 limited English proficiency allowance, elementary class size  
3 allowance, focus school and program allowance, summer school  
4 allowance, special receipts allowance, transportation allowance,  
5 elementary site allowance, instructional time allowance, distance  
6 education and telecommunications allowance, averaging adjustment,  
7 teacher education adjustment, new learning community transportation  
8 adjustment, student growth adjustment, and new school adjustment,  
9 minus the sum of the limited English proficiency allowance  
10 correction, poverty allowance correction, and local choice  
11 adjustment.

12 (3) Except as otherwise provided in this section, for  
13 school fiscal year 2010-11, each school district's formula need  
14 shall equal the difference of the sum of the school district's  
15 basic funding, poverty allowance, limited English proficiency  
16 allowance, elementary class size allowance, focus school and  
17 program allowance, summer school allowance, special receipts  
18 allowance, transportation allowance, elementary site allowance,  
19 instructional time allowance, teacher education allowance, distance  
20 education and telecommunications allowance, averaging adjustment,  
21 new learning community transportation adjustment, student growth  
22 adjustment, and new school adjustment minus the sum of the  
23 limited English proficiency allowance correction, poverty allowance  
24 correction, and local choice adjustment.

25 ~~(3)~~ (4) Except as otherwise provided in this section, for

1 school fiscal years 2011-12 and 2012-13, each school district's  
2 formula need shall equal the difference of the sum of the school  
3 district's basic funding, poverty allowance, limited English  
4 proficiency allowance, elementary class size allowance, focus  
5 school and program allowance, summer school allowance, special  
6 receipts allowance, transportation allowance, elementary site  
7 allowance, ~~instructional time~~ teacher education allowance, distance  
8 education and telecommunications allowance, averaging adjustment,  
9 ~~teacher education adjustment~~, new learning community transportation  
10 adjustment, student growth adjustment, any positive student growth  
11 adjustment correction, and new school adjustment, minus the sum  
12 of the limited English proficiency allowance correction, poverty  
13 allowance correction, any negative student growth adjustment  
14 correction, and local choice adjustment.

15 ~~(4)~~ (5) Except as otherwise provided in this section,  
16 for school fiscal year 2013-14 and each school fiscal year  
17 thereafter, each school district's formula need shall equal the  
18 difference of the sum of the school district's basic funding,  
19 poverty allowance, limited English proficiency allowance, focus  
20 school and program allowance, summer school allowance, special  
21 receipts allowance, transportation allowance, elementary site  
22 allowance, ~~instructional time~~ teacher education allowance, distance  
23 education and telecommunications allowance, averaging adjustment,  
24 ~~teacher education adjustment~~, new learning community transportation  
25 adjustment, student growth adjustment, any positive student growth

1 adjustment correction, and new school adjustment, minus the sum  
2 of the limited English proficiency allowance correction, poverty  
3 allowance correction, any negative student growth adjustment  
4 correction, and local choice adjustment.

5 ~~(5)~~ (6) If the formula need calculated for a school  
6 district pursuant to subsections (1) through ~~(4)~~ (5) of this  
7 section is less than one hundred percent of the formula need for  
8 such district for the school fiscal year immediately preceding  
9 the school fiscal year for which aid is being calculated, the  
10 formula need for such district shall equal one hundred percent  
11 of the formula need for such district for the school fiscal year  
12 immediately preceding the school fiscal year for which aid is being  
13 calculated.

14 ~~(6)~~ (7) Except as provided in subsection ~~(8)~~ (9) of  
15 this section, if the formula need calculated for a school district  
16 pursuant to subsections (1) through ~~(4)~~ (5) of this section is  
17 more than one hundred twelve percent of the formula need for  
18 such district for the school fiscal year immediately preceding  
19 the school fiscal year for which aid is being calculated, the  
20 formula need for such district shall equal one hundred twelve  
21 percent of the formula need for such district for the school fiscal  
22 year immediately preceding the school fiscal year for which aid  
23 is being calculated, except that the formula need shall not be  
24 reduced pursuant to this subsection for any district (a) receiving  
25 a student growth adjustment for the school fiscal year for which

1 aid is being calculated or (b) for school fiscal year 2008-09, for  
2 which the formula students for the certification of aid pursuant to  
3 section 79-1022 for school fiscal year 2008-09 minus the formula  
4 students for the certification of aid pursuant to section 79-1022  
5 for school fiscal year 2007-08 equals at least the greater of  
6 twenty-five students or one percent of the formula students for the  
7 certification of aid pursuant to section 79-1022 for school fiscal  
8 year 2007-08.

9 ~~(7)~~ (8) For purposes of subsections ~~(5)~~ and (6) and  
10 (7) of this section, the formula need for the school fiscal year  
11 immediately preceding the school fiscal year for which aid is being  
12 calculated shall be the formula need used in the final calculation  
13 of aid pursuant to section 79-1065 and for districts that were  
14 affected by a reorganization with an effective date in the calendar  
15 year preceding the calendar year in which aid is certified for the  
16 school fiscal year for which aid is being calculated, the formula  
17 need for the school fiscal year immediately preceding the school  
18 fiscal year for which aid is being calculated shall be attributed  
19 to the affected school districts based on information provided to  
20 the department by the school districts or proportionally based on  
21 the adjusted valuation transferred if sufficient information has  
22 not been provided to the department.

23 ~~(8)~~ (9) For state aid calculated for the first full  
24 school fiscal year of a new learning community, if the formula need  
25 calculated for a member school district pursuant to subsections

1 (1) through ~~(5)~~ (6) of this section is less than the sum of the  
2 school district's state aid certified for the school fiscal year  
3 immediately preceding the first full school fiscal year of the  
4 learning community plus the school district's other actual receipts  
5 included in local system formula resources pursuant to section  
6 79-1018.01 for such school fiscal year plus the product of the  
7 school district's general fund levy for such school fiscal year up  
8 to one dollar and five cents multiplied by the school district's  
9 assessed valuation for such school fiscal year, the formula need  
10 for such school district for the school fiscal year for which aid  
11 is being calculated shall equal such sum.

12           Sec. 6. Section 79-1007.15, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           79-1007.15 (1) For school fiscal year 2008-09, the  
15 department shall calculate an elementary site allowance for any  
16 district in which (a) the district has more than one elementary  
17 attendance site, (b) at least one of the elementary attendance  
18 sites does not offer any other grades, (c) the square miles in the  
19 district divided by the number of elementary attendance sites in  
20 the district equals one hundred square miles or more per elementary  
21 attendance site, and (d) the fall membership in elementary grades  
22 in the district divided by the number of elementary grades then  
23 divided again by the number of elementary attendance sites equals  
24 fifteen or fewer students per grade per elementary attendance site.  
25 Qualifying elementary attendance sites for such districts shall

1 only offer elementary grades and shall have an average of fifteen  
2 or fewer students per grade in the fall membership.

3 (2) For school fiscal year 2009-10 and each school fiscal  
4 year thereafter, the department shall calculate an elementary site  
5 allowance for any district which has at least one qualifying  
6 elementary attendance site and which submits the information  
7 required for the calculation on a form prescribed by the department  
8 on or before October 15 of the school fiscal year preceding the  
9 school fiscal year for which aid is being calculated. A qualifying  
10 elementary attendance site shall be an elementary attendance site,  
11 in a district with multiple elementary attendance sites, which does  
12 not have another elementary attendance site within seven miles in  
13 the same school district or which is the only public elementary  
14 attendance site located in an incorporated city or village.

15 (3) The elementary site allowance for each qualifying  
16 district shall equal the sum of the elementary site allowances for  
17 each qualifying elementary attendance site in the district. The  
18 elementary site allowance for each qualifying elementary attendance  
19 site shall equal five hundred percent of the statewide average  
20 general fund operating expenditures per formula student multiplied  
21 by the result of rounding the ratio of the fall membership  
22 attributed to the elementary attendance site divided by eight up to  
23 the next whole number if the result was not a whole number, except  
24 that if the resulting whole number is greater than the number of  
25 elementary grades offered in the elementary attendance site, the

1 whole number shall be reduced to equal the number of grades offered  
2 in the elementary attendance site.

3 (4) For purposes of this section:

4 (a) Each district shall determine which grades are  
5 considered elementary grades, except that (i) all grades designated  
6 as elementary grades shall be offered in each elementary attendance  
7 site in the district, without any preference indicated by the  
8 school board or any school district administrator for students to  
9 attend different elementary attendance sites depending on their  
10 elementary grade level, for the school fiscal year for which aid  
11 is being calculated and for each of the five school fiscal years  
12 preceding the school fiscal year for which aid is being calculated

13 and (ii) elementary grades shall not include grades nine, ten,  
14 eleven, or twelve;

15 (b) An elementary attendance site is an attendance site  
16 in which elementary grades are offered;

17 (c) The primary elementary site shall be the elementary  
18 attendance site to which the most formula students are attributed  
19 in the district and shall not be a qualifying elementary attendance  
20 site; and

21 (d) Fall membership means the fall membership for the  
22 school fiscal year immediately preceding the school fiscal year for  
23 which aid is being calculated.

24 (5) If the elementary attendance site is new or is being  
25 reopened after being closed for at least one school year, the

1 requirements of subdivision (4) (a) (i) of this section with respect  
2 to preceding school fiscal years shall not apply to school fiscal  
3 years in which the elementary attendance site was not in operation.

4 (6) The department shall determine if the qualifications  
5 for the elementary site allowance have been met for each elementary  
6 site for which information has been submitted. The department  
7 may rely on the information submitted and any other information  
8 available to the department, including, but not limited to, past  
9 attendance patterns. The state board shall establish a procedure  
10 for appeal of decisions of the department to the state board for a  
11 final determination.

12 Sec. 7. Section 79-1007.19, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 79-1007.19 For school fiscal year ~~2008-09~~ and each school  
15 ~~fiscal year thereafter,~~ years 2008-09 and 2009-10, the department  
16 shall calculate a teacher education adjustment for each district as  
17 follows:

18 (1) Teacher education points shall be calculated for each  
19 district by the department based upon data from the fall personnel  
20 report required pursuant to section 79-804 for the school fiscal  
21 year immediately preceding the school fiscal year in which aid is  
22 to be paid. Each full-time equivalent teacher shall (a) be under  
23 contract with a school district as required pursuant to section  
24 79-818 and (b) only be counted one time in the awarding of any  
25 points pursuant to this section. Each district shall receive one

1 point for each full-time equivalent teacher who has earned and been  
 2 awarded a master's degree or an education specialist's degree and  
 3 two points for each full-time equivalent teacher who has earned and  
 4 been awarded a doctoral degree;

5 (2) A teacher education index shall be calculated for  
 6 each district by dividing the ratio of teacher education points for  
 7 the district divided by the number of full-time equivalent teachers  
 8 in the district by the ratio of teacher education points for all  
 9 districts divided by the number of full-time equivalent teachers in  
 10 all districts; and

11 (3) The teacher education adjustment for each district  
 12 shall equal ten percent ~~for school fiscal years 2008-09 and~~  
 13 ~~2009-10 and thirteen and seventy-five one-hundredths percent for~~  
 14 ~~each school fiscal year thereafter~~ of the district's basic funding  
 15 multiplied by the difference of the product of the district's  
 16 teacher education index minus one, except that if the result is  
 17 less than zero, the teacher education adjustment shall equal zero.

18 Sec. 8. For school fiscal year 2010-11 and each school  
 19 fiscal year thereafter, the department shall calculate a teacher  
 20 education allowance for each district as follows:

21 (1) Teacher education points shall be calculated for each  
 22 district by the department based upon data from the fall personnel  
 23 report required pursuant to section 79-804 for the school fiscal  
 24 year immediately preceding the school fiscal year in which aid is  
 25 to be paid. Each full-time equivalent teacher shall (a) be under

1 contract with a school district as required pursuant to section  
2 79-818 and (b) only be counted one time in awarding any points  
3 pursuant to this section. Each district shall receive one point for  
4 each full-time equivalent teacher who has earned and been awarded a  
5 master's degree or an education specialist's degree and two points  
6 for each full-time equivalent teacher who has earned and been  
7 awarded a doctoral degree;

8 (2) A teacher education index shall be calculated for  
9 each district by dividing the ratio of teacher education points for  
10 the district divided by the number of full-time equivalent teachers  
11 in the district by the ratio of teacher education points for all  
12 districts divided by the number of full-time equivalent teachers in  
13 all districts; and

14 (3) The teacher education allowance for each district  
15 shall equal eight and one-half percent of the statewide average  
16 general fund operating expenditures per formula student multiplied  
17 by the district's formula students and multiplied by the difference  
18 of the product of the district's teacher education index minus one,  
19 except that if the result is less than zero, the teacher education  
20 allowance shall equal zero.

21 Sec. 9. Section 79-1007.23, Revised Statutes Supplement,  
22 2009, is amended to read:

23 79-1007.23 For state aid calculated for school fiscal  
24 ~~year~~ years 2009-10 and 2010-11: and each school fiscal year  
25 ~~thereafter:~~

1           (1) The department shall calculate an instructional time  
2 allowance for each district . For school fiscal year 2009-10, the  
3 instructional time allowance shall equal ~~to~~ the product of the  
4 formula students of such district multiplied by the instructional  
5 time factor for such district multiplied by eighty-five percent  
6 of the statewide average general fund operating expenditures per  
7 formula student. For school fiscal year 2010-11, the instructional  
8 time allowance shall equal the product of fifty percent of the  
9 formula students of such district multiplied by the instructional  
10 time factor for such district multiplied by eighty-five percent  
11 of the statewide average general fund operating expenditures per  
12 formula student;

13           (2) The instructional time factor shall equal the  
14 difference of the ratio of the district's average hours of  
15 instruction for each full-time student during the regular school  
16 year for the most recently available complete data year divided by:  
17 (a) For state aid calculated for school fiscal year 2009-10, the  
18 comparison group average hours of instruction for each full-time  
19 student during the regular school year for the most recently  
20 available complete data year minus one; or (b) for state aid  
21 calculated for school fiscal year 2010-11, ~~and each school fiscal~~  
22 ~~year thereafter,~~ the statewide average hours of instruction for  
23 each full-time student during the regular school year for the most  
24 recently available complete data year minus one, except that if  
25 the result is less than zero, the instructional time factor shall

1 equal zero; and

2 (3) The comparison group average hours of instruction for  
3 each full-time student shall be an average of the averages for  
4 all school districts in the comparison group. The average hours  
5 of instruction shall be defined by the department and shall not  
6 include extracurricular activities outside of the regular school  
7 day or time designated for students to eat lunch. The statewide  
8 average hours of instruction for each full-time student shall be an  
9 average of the averages for all school districts.

10 Sec. 10. Section 79-1008.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 79-1008.01 Except as provided in sections 79-1008.02  
13 to 79-1010, each local system shall receive equalization aid in  
14 the amount that the total formula need of each local system,  
15 as determined pursuant to sections 79-1007.01 to 79-1007.23 and  
16 section 8 of this act, exceeds its total formula resources as  
17 determined pursuant to sections 79-1015.01 to 79-1018.01.

18 Sec. 11. Section 79-1023, Revised Statutes Supplement,  
19 2009, is amended to read:

20 79-1023 (1) On or before June 1, 2009, on or before March  
21 1, 2010, and on or before February 1 of each year thereafter,  
22 the department shall determine and certify to each school district  
23 the maximum general fund budget of expenditures minus the special  
24 education budget of expenditures for the immediately following  
25 school fiscal year.

1                   (2) Except as provided in section 79-1028.01, no  
2 school district shall have a general fund budget of expenditures  
3 minus special grant funds and the special education budget of  
4 expenditures more than the greater of (a) the product of the  
5 difference of the general fund budget of expenditures minus special  
6 grant funds and the special education budget of expenditures  
7 for the immediately preceding school fiscal year multiplied by  
8 (i) except as otherwise provided in subdivision (a)(ii) of this  
9 subsection, the sum of one plus the local system's applicable  
10 allowable growth rate or (ii) for school fiscal year 2010-11, the  
11 sum of one plus one-half of one percent plus the local system's  
12 applicable allowable growth rate or (b)(i) except as otherwise  
13 provided in subdivision (b)(ii) of this subsection, the difference  
14 of one hundred twenty percent of formula need for such school  
15 fiscal year minus the product of the sum of one plus the basic  
16 allowable growth rate for such school fiscal year multiplied by  
17 the special education budget of expenditures as filed on the  
18 school district budget statement on or before September 20 for  
19 the immediately preceding school fiscal year or (ii) for school  
20 fiscal years 2009-10 and 2010-11, the difference of one hundred  
21 sixteen and fifteen-hundredths percent of formula need for such  
22 school fiscal year minus the product of the sum of one plus the  
23 basic allowable growth rate for such school fiscal year multiplied  
24 by the special education budget of expenditures as filed on the  
25 school district budget statement on or before September 20 for the

1 immediately preceding school fiscal year.

2           Sec. 12. Original sections 79-1005.01, 79-1007.15,  
3 79-1007.19, and 79-1008.01, Reissue Revised Statutes of Nebraska,  
4 and sections 77-3446, 79-1001, 79-1003, 79-1007.11, 79-1007.23, and  
5 79-1023, Revised Statutes Supplement, 2009, are repealed.

6           Sec. 13. Since an emergency exists, this act takes effect  
7 when passed and approved according to law.